SBCivil Writ Petition No.1899/2005

Bhagwanti Jeengar & Anr.
Vs.
State of Rajasthan & Ors.

Date of Order :: 4th August, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sandeep Shah, for the petitioners.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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By an order dated 29.11.1996 appointment was given to the petitioners as teacher Gr.III against the vacancies pertaining to widows and divorced women. A relaxation was also given to them in qualification with a condition to acquire the same within a period of three years. The petitioners No.1 and 2 in pursuant to the order dated 29.11.1996 joined the services on 16.12.1996 and 12.12.1996 respectively. It is pertinent to note that under the order of appointment dated 29.11.1996 the petitioners were allowed to join duties upto 24.12.1996. The petitioners after being employed as teacher Gr.III acquired the qualification of BSTC on 23.12.1999. The respondents did not allow study leave to the petitioners and also not allowed the benefit of revised pay scales wit all annual grade increments on the count that they failed to acquire the qualification concerned within a period of three years. Being aggrieved by the same this petition for writ is preferred.

A reply to the writ petition has been filed by the respondents stating therein that a divorced lady employed is required to acquire the qualification eligibility within a period of three years and if she failed to do so no study leave could be granted to her. The petitioners being failed to acquire qualification of BSTC within a period of three years, therefore, are not entitled for study leave as well as annual grade increments.

Heard counsel for the parties.

The relaxation in educational qualification is granted to the divorced and widow women in pursuant to the proviso to Rule 11 of the Rajasthan Education Subordinate Service Rules, 1971 (hereinafter referred to as “the Rules of 1971”), that reads as under:-

> “Provided that the widows and Divorced Women will be given relaxation in qualification of STC or B.Ed as the case may be for appointment to the post of Teacher or Senior Teacher they are otherwise eligible and furnish an undertaking to the effect that the qualifiction of STC or B.Ed as may be relevant shall be obtained within a period of three years. They shall also be eligible for grant of Study Leave soon after their appointment for acquiring the qualification of STC or B.Ed.”

From reading of the proviso above, it is clear that it nowhere restricts a widow or a divorced lady from getting study leave if she do not acquire required qualification within a period of three years. The grant of study leave is not at all dependent to the period prescribed for acquiring the eligibility. As such I do not find any just and valid reason to deny study leave and other consequential benefits to the petitioners.

Accordingly, this petition for writ is allowed. The respondents are directed to sanction study leave to the petitioners and also to make fixation of the petitioners in the revised pay scales. The petitioners are also declared entitled for getting annual grade increments in accordance with the Rules, if they are not otherwise disentitled.

(GOVIND MATHUR),J.

kkm/ps.